EXHIBIT "A"

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ONEIDA

COPY OF FILING

ROBERT M. CIFONELLI,

Plaintiff,

-against-

NEW YORK STATE TECHNOLOGY ENTERPRISE CORPORATION; EMPLOYEE NETWORK, INC. d/b/a "eni"; and JOHN DOE(S) and JANE DOE(S),

Defendants.

SUMMONS

Plaintiff designates Oneida County as the place of trial.

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your answer or, if the Complaint is not served with this Summons, to serve a Notice of Appearance on Plaintiff's attorney within twenty (20) days after service of this Summons, exclusive of the day of service; or within thirty (30) days after service is complete if this Summons is not personally delivered to you within the State of New York. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

The basis of the venue designated is the residence of the Plaintiff. Plaintiff resides at [redacted], Sauquoit, New York 13456.

Dated: June 24, 2011
at Rome, New York

BOSMAN LAW FIRM, L.L.C.
Attorneys for Plaintiff

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Sandra J. DePerno, Oneida County Clerk

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ONEIDA

ROBERT M. CIFONELLI,

Plaintiff,

-against-

NEW YORK STATE TECHNOLOGY ENTERPRISE CORPORATION; EMPLOYEE NETWORK, INC. d/b/a "eni"; and JOHN DOE(S) and JANE DOE(S),

Defendants.

COMPLAINT

Plaintiff Robert M. Cifonelli, by and through his attorneys, Bosman Law Firm, L.L.C. (A.J. Bosman, Esq.) and Norman P. Deep, Esq., for his Complaint against Defendants, New York State Technology Enterprise Corporation, Employee Network, Inc. d/b/a "eni", and John Doe(s) and Jane Doe(s), alleges as follows:

1. Plaintiff Robert M. Cifonelli is a natural person who resides in the County of Oneida, State of New York. At all times relevant hereto, he was an employee of Defendant New York State Technology Enterprise Corporation ("NYSTEC" or "Defendant employer").

2. Defendant NYSTEC is a corporation duly organized and existing under the laws of the State of New York and maintains a principal place of business in Rome, New York in the County of Oneida. At all times relevant hereto, NYSTEC was the employer of the Plaintiff.

3. Upon information and belief, Defendant NYSTEC is an "employer" as that term is defined in the Americans with Disabilities Act, 42 U.S.C. §§ 12101, et seq. ("ADA") and the

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Human Rights Law of the State of New York, N.Y. Exec. Law §§ 290, et seq ("Human Rights Law").

4. Defendant Employee Network, Inc. d/b/a "eni" ("eni") is a corporation duly organized and existing under the laws of the State of New York and maintains a principal place of business in Vestal, New York in the County of Broome. Upon information and belief, Defendant eni is in the business of providing psychological therapy to employees who participate in "Employers' Assistance plans" or similar programs.

5. Plaintiff was employed by Defendant employer for almost 12 years as an Engineer. He was unlawfully terminated on or about January 25, 2010 because of his disabilities and/or requests for reasonable accommodation. Plaintiff suffers from the following qualifying disabilities: general anxiety disorder, panic disorder without agoraphobia, and social phobia. If reasonably accommodated, these disabilities would not have prevented him from competently continuing to perform his job duties for the Defendant employer.

6. At the time of his dismissal, he was not the subject of any form of work-related progressive discipline except for a written letter given to him by management dated September 22, 2009. In addition, all of Plaintiff's annual performance appraisals and testimonials demonstrated that he was an asset to the company, fully capable of performing his job assignments.

7. The said letter of September 22, 2009 focused on travel being an "essential function" of the Plaintiff's job duties. That was and is untrue inasmuch as travel was not an "essential function" to fulfill Plaintiff's job duties. Further, Defendant employer could have accommodated the Plaintiff's disabilities as the only aspect of his employment which required an accommodation was

to not have Plaintiff travel long distances. The Defendant employer's President, Michael Donovan and the head of human resources, Kelly Sullivan insisted that the Defendant could not accommodate Plaintiff's disabilities.

8. Prior to Plaintiff's dismissal, his ability to perform his engineering duties was not an issue. The Defendant refused to consider technological means of avoiding extensive travel through the use of tools available through the Internet and other forms of modern communication.

9. Upon information and belief, providing Plaintiff with accommodation would not have been economically detrimental to NYSTEC's operations. Defendant employer determined that it would be easier to terminate Plaintiff's employment rather than consider viable options which would have enabled him to continue performing his job duties.

10. In addition, the Defendant employer attempted to unlawfully subvert the requirement of providing a reasonable accommodation under the ADA and Human Rights Law by enlisting the services of Defendant eni and mandating he undergo therapy in an "Employee Assistance Program" as provided by eni. Defendants unlawfully interfered with Plaintiff's medical care and treatment in that such therapy was not recommended nor authorized by a medical professional and constituted an unwarranted invasion of privacy. The law does not require Plaintiff undergo therapy before he may seek or secure a reasonable accommodation.

11. Upon information and belief, the forced participation in therapy is unlawful under the ADA and the Human Rights Law. Upon information and belief, Defendant eni's involvement in such forced therapy is an unlawful activity and renders it liable as an "aider or abetter" of discrimination under the Human Rights Law.

12. Plaintiff has been caused to suffer harm, including but not limited to, extreme anxiety, embarrassment, physical distress, humiliation, degradation, loss of pay, loss of benefits, loss of enjoyment of life, harm to reputation and good name, anger, fear and nervousness.

13. On or about June 14, 2010, Plaintiff filed a charge of discrimination with the U.S. Equal Employment Opportunity Commission ("EEOC"). Plaintiff's EEOC complaint was cross filed with the New York State Division of Human Rights pursuant to a work-share agreement enjoyed by the two agencies.

14. On or about March 28, 2011, the EEOC issued a Notice of Right to Sue letter to Plaintiff.

15. Plaintiff has exhausted his administrative remedies.

AS AND FOR A FIRST CAUSE OF ACTION
UNDER THE ADA AGAINST NYSTEC

16. Plaintiff repeats and re-alleges each and every allegation set forth in paragraph 1 through 15 above.

17. The actions and/or omissions of Defendant employer as set forth above constitute a violation of Plaintiff's rights under the ADA.

18. Plaintiff was injured and harmed as a result of said unlawful actions and/or omissions and is entitled to compensation therefor.

AS AND FOR A SECOND CAUSE OF ACTION
UNDER THE HUMAN RIGHTS LAW AGAINST NYSTEC

19. Plaintiff repeats and re-alleges each and every allegation set forth in paragraph 1 through 18 above.

20. The actions and/or omissions of Defendant employer as set forth above constitute a

violation of Plaintiff's rights under the Human Rights Law.

21. Plaintiff was injured and harmed as a result of said unlawful actions and/or omissions and is entitled to compensation therefor.

AS AND FOR A THIRD CAUSE OF ACTION
UNDER THE HUMAN RIGHTS LAW AGAINST eni

22. Plaintiff repeats and re-alleges each and every allegation set forth in paragraph 1 through 21 above.

23. The actions and/or omissions of Defendant eni as set forth above constitute "aiding and abetting" activity proscribed under the Human Rights Law and a violation thereof.

24. Plaintiff was injured and harmed as a result of said unlawful actions and/or omissions and is entitled to compensation therefor.

AS AND FOR A FOURTH CAUSE OF ACTION
FOR NEGLIGENCE AGAINST eni

25. Plaintiff repeats and re-alleges each and every allegation set forth in paragraph 1 through 24 above.

26. Defendant eni owed a duty of care to Plaintiff as a provider of psychological "therapy".

27. Defendant eni breached that duty of care in recommending "mandated" therapy when such "mandated" therapy was against the psychological health and well being of the Plaintiff and outside the standard of care.

28. Defendant eni also breached the duty of care in communicating to Plaintiff's employer that he was "unwilling" to continue treatment and "non-compliant".

29. The said breach of duty was the proximate cause of damages as said breach caused and/or contributed to the employer's decision to terminate the Plaintiff's employment.

30. Plaintiff was injured and harmed as a result of Defendant eni's negligence and is entitled to compensation therefor.

WHEREFORE, Plaintiff Robert M. Cifonelli respectfully requests judgment against the Defendants, Defendants, New York State Technology Enterprise Corporation, Employee Network, Inc. d/b/a "eni", and John Doe(s) and Jane Doe(s), jointly and severally, as follows:

a. an Order of Reinstatement restoring Plaintiff to his position as an Engineer;

b. an Order enjoining the Defendants from further violating Plaintiff's rights;

c. compensatory damages in an amount to be determined at trial;

d. punitive damages in an amount to be determined at trial;

e. reasonable attorneys' fees and costs as provided by the ADA;

f. declaratory relief finding each Defendant violated Plaintiff's rights;

g. for the First, Second, and Third Causes of Action, granting the following injunctive relief:

1. Restraining the Defendants from engaging in further discriminatory treatment;

2. Require the Defendants to review and correct all discriminatory treatment and conduct practiced by Defendant employer and its "aider and abetter", Defendant eni;

3. Provide equal opportunities, terms, benefits, and pay to all employees of the Defendant employer;

4. Mandate training and educational programs for employees about retaliation and discrimination;

5. Require annual reports demonstrating efforts and success at compliance in providing a discrimination free workplace; and

6. Require the investigation and if appropriate, discipline of employees who have violated rights of disabled employee; and

h. such other and further relief the Court deems just and proper.

Dated: June 24, 2011
at Rome, New York

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